

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Requirements for Digital Television Receiving)	ET Docket No. 07-62
Capability)	
)	

ORDER

Adopted: December 14, 2007

Released: December 14, 2007

By the Chief, Office of Engineering and Technology:

1. This Order dismisses a Petition for Waiver submitted by Electric Mirror, LLC (Electric Mirror) requesting a temporary six-month waiver of the digital television (DTV) tuner requirement in Section 15.117(i) of the Commission's rules.¹ The DTV tuner requirement provides that, effective March 1, 2007, new TV broadcast receivers cannot be imported or shipped in interstate commerce unless they include the capability to receive digital television signals. This rule is part of the Commission's plan for completing the statutorily mandated transition of the broadcast television service from analog to digital operation on February 19, 2007.

2. Electric Mirror's request concerns the application of the DTV tuner requirement to TV receivers in its vanity mirror products. It states that these mirrors are designed for hotels to use with closed circuit video systems. Electric Mirror submits that its vanity mirrors are unique in that they contain an ultra-thin LCD TV that is not more than one inch thick with a seamless flat edge and is integrated into the mirror. It states that these specialized televisions are supplied by third parties and because of the extreme thinness of the TV sets it has had great difficulty in obtaining products that can comply with the March 1, 2007 deadline. Electric Mirror also argues that its situation is similar to that of two other small manufacturers of specialty TV receiving equipment, PDI Communications Systems, Inc. (PDI) and Sumitomo Canada Limited (Sumitomo) to whom the Commission granted one-year extensions of the DTV tuner rule.² It therefore requests that the Commission grant it a temporary, six-month waiver if the DTV tuner requirement, *i.e.*, until September 1, 2007.

3. Inasmuch as the time period over which the waiver of the DTV tuner requirement sought by Electric Mirror has passed, its request for a waiver of that requirement is now moot. We are therefore dismissing Electric Mirror's Petition for Waiver requesting a temporary six month waiver of Section 15.117(i) for the TV receivers in its Vanity Mirror products.

4. We further observe that, were the waiver request not moot, a grant of the waiver requested by Electric Mirror would be inconsistent with the Commission's goal of ensuring that viewers are able to receive broadcast television service after analog service ends and therefore would not have served the public interest. In this regard, we are mindful that the Commission's purpose in adopting the DTV tuner mandate was to "maximize the number of DTV receivers on the market, and that its goal was

¹ See Petition for Waiver submitted by Electric Mirror, LLC, February 28, 2007; *see also* 47 C.F.R. § 15.117(i).

² See *Order*, FCC 06-123, released August 17, 2006, granting a one-year extension of the Section 15.117(i) compliance date to PDI Communications, Inc. and *Order*, DA 07-24, released January 5, 2007, granting a similar one year extension of that compliance date to Sumitomo Canada Limited.

that all new television receiver products include a DTV tuner as quickly as possible.”³ As observed by the opposing commenting parties, a waiver of the tuner requirement would undermine the DTV transition process by allowing the marketing of new TV receiver products that cannot receive digital signals, and therefore would lose functionality after analog service ends without countervailing public interest benefits.⁴ We are also concerned that grant of this waiver could cause confusion in the market with respect to the Commission’s firm objective to ensure that all new broadcast television receivers are able to receive digital signals.

5. We do not find persuasive Electric Mirror’s arguments that the requested waiver would not defeat the purpose of the rule because its mirror TVs are not used as the primary television in a hotel room. In the *Second Report and Order*, the Commission made no distinction for secondary or ancillary sets, and such sets would fail to operate after analog service ceases just the same as primary analog-only sets. Finally, we disagree that Electric Mirror’s situation with respect to its mirror TV receivers is the same as that of the cases in which the Commission granted one-year temporary waivers of the DTV tuner requirement to PDI and Sumitomo for their healthcare video viewing units. In those cases, the Commission found specific circumstances that warranted a temporary waiver of the rules to allow additional analog receivers to enter the market after March 1, 2007. In particular, the Commission found that those waivers were warranted because the television receivers at issue are 1) used to provide service to a special population with special needs for patient information and communications as well as entertainment, namely healthcare patients, and 2) are subject to the typically lengthy process for meeting the safety requirements for equipment used in medical facilities. The Commission found that the medical equipment approval process, coupled with the small size of these manufacturers, could pose problems for providing the TV receivers needed to serve healthcare patients. The Electric Mirror receivers are not used by a population with these special needs nor are they subject to a lengthy approval process.

6. Accordingly, IT IS ORDERED that pursuant to the authority contained in Sections 2(a), 4(i) and (j), 303, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 152(a), 154(i) and (j), 303, and 405, and Sections 1.3 and 1.106 of the Commission’s rules, 47 C.F.R. §§ 1.3 and 1.106, the Petition for Waiver of Section 15.117(i) of the rules submitted by Electric Mirror, LLC IS DISMISSED, for the reasons indicated above.

FEDERAL COMMUNICATIONS COMMISSION

Julius P. Knapp,
Chief, Office of Engineering and Technology

³ See *Second Report and Order* in ET Docket No. 05-24, 20 FCC Rcd 18607 (2006) at para. 6.

⁴ Opposing comments of LG Electronics USA at 2; the Association for Maximum Service Television and the National Association of Broadcasters, in a joint filing, at 2; and Philips Electronics North America Corporation at 5.